



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 9, 1996

Ms. Kelly Fletcher Schurr
Assistant City Attorney
City of Dallas
City Hall
Dallas, Texas 75201

OR96-2327

Dear Ms. Schurr:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 102238.

The City of Dallas (the "city") received an open records request for certain records pertaining to traffic accidents involving city police officers and the claims the city has paid with regard to those accidents. You state that the city has released most of the requested information. You seek to withhold, however, pursuant to section 552.103 of the Government Code certain reports and witness statements ("Exhibit B") relating to three accidents for which claims against the city are currently pending.

To secure the protection of section 552.103(a), a governmental body must demonstrate that the requested information relates to pending or reasonably anticipated litigation to which the governmental body is a party.¹ Open Records Decision No. 588 (1991) at 1. In this instance you have made the requisite showing that the information at issue relates to reasonably anticipated litigation for purposes of section 552.103(a). The requested records may therefore be withheld, with one exception.

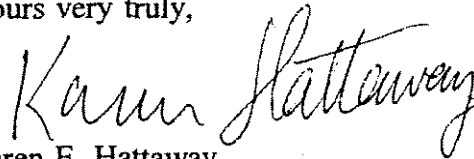
We note that, absent special circumstances, once information has been obtained by all parties to the litigation, *e.g.*, through discovery or otherwise, no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). Exhibit B contains the witness statement of one of the individuals who has filed a notice of claim against the city. Because this individual has had prior access to

¹We note, however, that the applicability of section 552.103(a) ends once the litigation or likelihood thereof has concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

his own statement, there is no justification for now withholding that information from the requestor pursuant to section 552.103(a). That witness statement, therefore, must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script, reading "Karen Hattaway".

Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/RWP/ch

Ref.: ID# 102238

Enclosures: Submitted documents

cc: Ms. Christi O'Conner
KTVT News
Fax: (817) 457-8054
(w/o enclosures)